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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,479	03/17/2000	Rodney M. Goodman	06618/120002/CIT2580-D1	5202

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EXAMINER	
HOYE, MICHAEL W	

ART UNIT	PAPER NUMBER
2614	

DATE MAILED: 01/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/528,479	GOODMAN ET AL.	
	Examiner	Art Unit	
	Michael W. Hoye	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 September 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 September 2004* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicants' arguments filed on September 7, 2004 have been fully considered but they are not persuasive.

Regarding independent claim 1, the Applicants argue on page 8 that, "while Echeita et al. does teach a system that automatically detects and reconciles transmitted advertisements, it does not teach or suggest authorizing an error resolution procedure when the commercial played at [a time] other than the agreed time."

The Applicants further argue on page 9 that:

> "Echeita et al. teaches nothing about such an error resolution procedure. For example, Echeita et al.'s column 8 describes that the provider and advertiser can make a judgment on whether the spot (the commercial) "aired outside the time period under which it was specified". See column 8, lines 58-59. If the spot did air outside of that time, then a discrepancy is established. The only thing that Echeita et al. says about this, however, is that "therefore, this commercial spot has a discrepancy because it appeared too late"' see column 8, lines 60-61. Column 10, lines 42-57 describes that discrepancies can be pointed out ("point out the exact location of these discrepancies") however, there is no teaching or suggestion of an error resolution procedure for these discrepancies. Rather, the concept of error resolution for these discrepancies is entirely outside the scope of Echeita et al."

In response, the Examiner respectfully disagrees with the Applicants because the Echeita et al reference does teach an error resolution procedure as described in part in col. 8, lines 50-65, col. 10, lines 41-58, and more explicitly in conjunction with col. 3, lines 5-14 and col. 4, lines 42-48, where the various attributes and/or parameters of actual advertisements as broadcast are gathered, and the attributes/parameters are compared with contractually agreed upon

attributes/parameters, which is known as advertisement reconciliation. The "assembled reconciliation data may be sent to a computer for additional processing such as comparing the assembled reconciliation data with the various contractually agreed-upon parameters and identifying any discrepancies between the two. The computer may route the reconciliation data and/or processed reconciliation data...to a billing and accounting system that would use the reconciliation data to finalize the sale and initiate billing." When a discrepancy occurs, such as a commercial airing at the wrong time, problems may be researched to find the cause of the problem, the advertiser may be billed less or not billed (depending on the contract), and/or the commercial may be aired at another time as a "make good" for a commercial previously missed (also depending on the contractually agreed on attributes/parameters).

Regarding dependent claim 3, the Applicants argue that, "nothing in Echeita et al. teaches or suggest information that is correlated with the content."

In response, the Examiner respectfully disagrees with the Applicants because the Echeita et al reference discloses in col. 5, lines 43-53, that the reconciliation data, security access data, etc., are coordinated with a particular commercial spot and encoded into data packets that accompany the data packets that for the actual advertisement.

Drawings

2. The replacement drawings were received on 9/7/04. These drawings are acceptable.

Claim Objections

3. Claim 3 is objected to because of the following informalities: the word "aid" on line 1 of the claim appears to be a typographical error and should be --said--, and the letter "c" in line 2 of the claim appears to be a typographical error and should be canceled. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "said information correlated with the advertisement" in lines 1-2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Echeita et al (USPN 5,826,165), cited by the Examiner.

As to claim 1, note the Echeita et al reference which discloses an advertisement reconciliation system, that includes a method of scheduling and paying for advertising. The claimed "booking an advertising segment with an advertising agency" is met by a contract (col. 3, lines 40-41) or contractually agreed upon attributes/parameters (col. 4, lines 42-47; also see Ad Agency 38 in Fig. 1). The Echeita reference discloses the claimed booking for said advertising segment comprising determining time (col. 3, lines 30-36), network (col. 1, lines 15-17 and col. 7, line 48), and pricing (col. 1, lines 19-20). It would have been obvious to one of ordinary skill in the art to have the claimed booking further include commission parameters for said advertising segment since Echeita discloses that the contract agreed upon may include various attributes/parameters (col. 4, lines 42-47) and it is well known in the art of scheduling advertisements to include various commission incentives according to the accuracy of the broadcaster airing the commercial at the correct time, during a promotional period, or various other related parameters for the advantage of increasing sales and revenue for the broadcasters and ad agencies. The claimed "establishing an account with a clearinghouse" is met by the advertisement reconciliation system computers 38 (Fig. 1) and the billing accounts system 40, where the system computers 38 determine if the commercial actually aired at the specified time by automatically detecting the contract number and contract line number as well as the time spot aired information from the broadcast data stream, the accounting procedures allow the program provider and advertiser to make an immediate judgment on whether the commercial aired at the specified time and to point out discrepancies if an error occurs (col. 8, lines 8-21 & 31-65; and col. 10, lines 49-59). Moreover, the claimed error resolution procedure is described in part in col. 8, lines 50-65, col. 10, lines 41-58, and more explicitly in conjunction with col. 3, lines 5-14

and col. 4, lines 42-48, where the various attributes and/or parameters of actual advertisements as broadcast are gathered, and the attributes/parameters are compared with contractually agreed upon attributes/parameters, which is known as advertisement reconciliation. The "assembled reconciliation data may be sent to a computer for additional processing such as comparing the assembled reconciliation data with the various contractually agreed-upon parameters and identifying any discrepancies between the two. The computer may route the reconciliation data and/or processed reconciliation data...to a billing and accounting system that would use the reconciliation data to finalize the sale and initiate billing." When a discrepancy occurs, such as a commercial airing at the wrong time, problems may be researched to find the cause of the problem, the advertiser may be billed less or not billed (depending on the contract), and/or the commercial may be aired at another time as a "make good" for a commercial previously missed (also depending on the contractually agreed on attributes/parameters). In addition to, the advertisements and other data signals encoded and transmitted along with security access data (col. 5, lines 43-67) and the security of the data transmitted is decrypted and processed by access control circuits (col. 6, lines 30-64).

As to claim 2, the claimed error resolution determines if the commercial has played within a specified interval of the specified time and allows payment if so is met by col. 3, lines 5-14, col. 8, lines 8-21 & 31-65; and col. 10, lines 49-59, as previously described above.

As to claim 3, the claimed security comprises digitally encoding data packets that accompany the data packets that form the actual advertisement (see col. 5, lines 43-67), where the data packets include numbers or identifiers that identify the actual advertisement (col. 5, lines 4-14). Furthermore, the Echeita et al reference discloses in col. 5, lines 43-53, that the

reconciliation data, security access data, etc., are coordinated with a particular commercial spot and encoded into data packets that accompany the data packets that for the actual advertisement.

Allowable Subject Matter

8. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 4, the prior art alone or in combination does not disclose or suggest that the security comprises information on the advertising segment correlated with content of the advertising segment, that comprises information indicative of an average brightness of at least part of the advertisement.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Forbes et al (USPN 5,708,477) – Discloses a video signal identifier for controlling a VCR and Television based on the occurrence of commercials, and discloses the use of average brightness of a portion of a full video frame.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoye whose telephone number is (703) 305-6954. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (703) 305-4795.

Any response to this action should be mailed to:

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **(703) 308-HELP**.

Michael W. Hoye
January 19, 2005

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600